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VERASITY OF EQUALITY

By, *Himanshi Bhasin*
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“The presumption of innocence (Innocent until proven guilty)¹” is the legal principle that means, one is presumed to be innocent until proven guilty. This is one of the Constitutional Right given to every citizen of India, which is at risk. *Any crime or offence, if committed by a man, he is considered to be guilty until proved innocent and on the other facet if committed by a woman, she is considered to be innocent until proved guilty.*

Even in this neoteric era, the society considers men to have main reins and eloquence, and therefore, any crime committed upon women becomes a tactful and diplomatic issue, though on raking up, unequivocally, tremendous increase across the world is discernible in sexual abuse committed by men on women. But there are many cases related to crime on men which

remains unreported and even undisclosed due to fear of *jeering laughter of the society* and thus, no justice is being delivered to men who are either survivors or victim of the offences by women.

Although there are numerous criminal cases of rape, acid attack, honor killing, sexual assault or sexual harassment, dowry etc., *But* at the ground level these offences are not only committed by men on women, apparently the offences which are considered to be women-centric are sparingly committed against men too.

Rape is considered ever patriarchal. As per Section 375 of Indian Penal Code, 1860 ‘rape’ is considered to be committed only by a ‘man’ on woman. This is a big lacuna in the Indian legal provisions that rape laws are *gender-bias* rather they must be *gender-neutral*. In 2013, after the horrendous case, popularly known as Nirbhaya Gang Rape case, Centre passed Criminal Amendment Act 2013, which resulted in spiking and stringing laws for women. Meanwhile, in wake of which many male rape survivors or

¹ ROBERSON & O’REILLY, PRINCIPLES OF CRIMINAL LAW, PEARSON (7TH ed. 2019)

victims also began to raise their voices against the wrong done to them by men or women (as specified under Section 377 titled as '*Unnatural Offences*'). A man living in Chennai, also posted a blog about his memory of being raped which spread like a wild fire, thus in 2013 itself the center passed Criminal law (Amendment) Ordinance which substituted 'sexual assault' for 'rape' and made the crime gender- neutral. But, the parliamentarians opined that women are incapable of committing crimes of power. The Constitution of India is the Grundnorm of the country and all the provision of any other law must not be inconsistent with the provisions of The Constitution. However, rape laws being gender- specific violates the fundamental right of 'Right to Equality' provided under Article 14 of our Constitution.

Another heinous crime is acid attack which is also, not women-centric only. In a survey report by Home Ministry² in 2014, 225 acid attacks in a year were reported all over India. All these cases were of women survivors or victims, but, what about the cases of acid attack on men? No attention was being paid to men rape or acid attack survivors or victims while preparing the report. The government need to conduct a survey for gathering Indian statistics of men

rape and acid attack cases. However, the Government of India do find statistical data of child abuse including rape or sodomy which includes female child as well as male child. "*A Delhi- based Centre for Civil Society founded that 18 per cent of Indian adult men were being forced or coerced to have sex, of those 16 per cent claimed a female perpetrator and 2 per cent claimed a male perpetrator.*³" Still there is no law to consider and punish such cases of sexual abuse wherein perpetrator is women and the victim is men.

Another one of the most abused law can be seen of dowry and cruelty against women. Such offences are recognized by law and are punishable under Section 304B (Dowry death) and Section 498A (cruelty by 'husband' and 'his relatives' on 'wife') respectively of The Indian Penal Code, 1860; Section 113B of Indian Evidence Act, 1872 and a separate Act i.e. Dowry Prohibition Act, 1961 was enacted for women. Supreme Court of India in year 2017 noted that, "*The law under Section 489-A of Indian Penal Code, 1860 is being increasingly misused by some disgruntled wives.*" Also in an article published by The Indian Express, "*Every year near about 10,000 complaints of dowry harassment are found to be false, given that 90,000 to 1, 00,000 cases are investigated every year.*"

² www.mha.gov.in/document/annual-reports

³ <https://ccs.in/>

The misuse of this dominant power is an overt act of Violation of Human Rights of the innocent which sometimes in some cases even lead to commitment of suicide by the innocent husband. *As per a report published in 2013, male suicide cases were reported as higher than that of females. There were approx. 67.13% male suicide cases among which family problems recorded the highest number of suicides and nearly, 27.40% of suicide committed by male were due to physical abuse.*"⁴

A wide spread popular movement i.e. #MeToo broke out in India in the year 2018 in September. *"The 'me too.' movement was founded in 2006 by Tarana Burke to help survivors of sexual violence, particularly Black women and girls, and other young women of color from low wealth communities, find pathways to healing.*"⁵ The movement became viral in India in year, 2018 in September. #MeeToo was started for supporting minority black community but the aim diverted with its wide spread. #MeeToo was simply used to defame men which lead to an outlandish situation in the country, especially among the men, which grew intense as the time passed, and various Public Interest Litigation (PILs) were filed by men, claiming they are the actual victims, since the inception of the movement. The

#MeeToo movement which was being used mendaciously, lead to awakening of #MenToo activism, but this was not all rosy, rather squirming and uneasy.

In the Report by "PURUSH AAYOG", Smt. Smriti Irani, being a Women and Child Welfare Ministry minister, discriminated boys from girls by tendering scholarships of 2500 rupees to sons and 3000 rupees to daughters of Martyrs from National Defense Fund. Needless to mention that a child includes both male and female child, how could such discrimination be justified?

CONCLUSION:

It is the Principle of Natural Justice that "One who seeks justice, must do justice." and so women, if they seek justice for the wrong done to them by men, then there must equally be a well- established mechanism for rendering justice to Men too, against whom the crime has been done by Women. The Deity of Law keeps eyes closed, yet its eyes are wide open. The idiom "Law is blind" means law is impartial, it does not see 'who' the accused or victim is, whether the victim or accused is a male or a female, is not the concern of law. The Constitution of India, in its Preamble itself grants Justice, Liberty, Equality and Fraternity to 'all the citizens', irrespective of any gender. Thus, there is a need to make some laws gender-neutral, more specifically, the rape laws to ensure

⁴ <https://ncrb.gov.in/crime-india>

⁵ <https://metoomvmt.org/about/>

that justice is being delivered equally to every individual irrespective of any kind of discrimination. A better tomorrow lies within betterment of our laws done today irrespective of any gender biasness.

“I dream of a country wherein there won't be a man or woman, believer or non-believer, instead we all will be just humans.”